

businesses may submit a down payment of 5 percent of the winning bid five days after the auction closes and 5 percent five days after public notice that the license is ready for grant.

§ 26.207 Long form applications.

Winning bidders will be required to submit long form applications on FCC form XXX, as modified, within ten (10) business days after being notified that they are the winning bidder. Applications on FCC Form XXX shall be submitted pursuant to the procedures set forth in subpart G of this part and § 1.2107 (c) and (d) of this chapter and any associated Public Notices. Only auction winners will be eligible to file applications on FCC Form XXX for initial GWCS licenses in the event of mutual exclusivity between applicants filing Form 175. Winning bidders need not complete Schedule B to Form XXX.

§ 26.208 License grant, denial, default, and disqualification.

(a) Unless eligible for installment payments and/or a bidding credit, each winning bidder is required to pay the balance of its winning bid in a lump sum payment within five (5) business days following the award of the license. Grant of the license will be conditioned upon full and timely payment of the winning bid amount.

(b) A bidder who withdraws its bid, defaults on a payment or is disqualified will be subject to the penalties specified in § 1.2109 of this Chapter.

(c) An eligible small business may elect to pay its winning bid, less upfront payments, over the terms of the license. Interest charges are fixed at the time of licensing at the rate equal to U.S. Treasury obligation plus 2.5 percent. Installment payments are due quarterly on the anniversary of the day the license was granted, except that interest-only installment payments are permitted during the first two years of the license.

§ 26.209 Eligibility for partitioned licenses.

(a) Notwithstanding § 26.102, an applicant that is a rural telephone company, as defined in § 26.4, may be granted a GWCS license that is geographically partitioned from a separately li-

censed EA, so long as the EA applicant or licensee has voluntarily agreed (in writing) to partition a portion of the license to the rural telephone company.

(b) If partitioned licenses are being applied for in conjunction with a license(s) to be awarded through competitive bidding procedures—

(1) The applicable procedures for filing short-form applications and for submitting upfront payments and down payments contained in this part and Part 1 of this chapter shall be followed by the applicant, who must disclose as part of its short-form application all parties to agreement(s) with or among rural telephone companies to partition the license pursuant to this section, if won at auction (see § 1.2105(a)(2)(viii));

(2) Each rural telephone company that is a party to an agreement to partition the license shall file a long-form application for its respective, mutually agreed-upon geographic area together with the application for the remainder of the EA filed by the auction winner.

(c) If the partitioned license is being applied for as a partial assignment of the EA license following grant of the initial license, request for authorization for partial assignment of a license shall be made pursuant to § 26.324.

(d) Each application for a partitioned area (long-form initial application or partial assignment application) shall contain a partitioning plan that must propose to establish a partitioned area to be licensed that meets the following criteria:

(1) Conforms to established geopolitical boundaries (such as county lines);

(2) Includes the wireline service area of the rural telephone company applicant; and

(3) Is reasonably related to the rural telephone company's wireline service area.

NOTE TO PARAGRAPH (d)(3): A partitioned service area will be presumed to be reasonably related to the rural telephone company's wireline service area if the partitioned service area contains no more than twice the population overlap between the rural telephone company's wireline service area and the partitioned area.

(e) Each licensee in each partitioned area will be responsible for meeting the

construction requirements in its area (see § 26.104).

§ 26.210 Provisions for small businesses.

(a) Bidding credits. A winning bidder that qualifies as a small business or a consortium of small businesses may use a bidding credit of ten percent to lower the cost of its winning bid.

(b) Installment payments. A winning bidder that qualifies as a small business may pay its winning bid amount (less upfront payments) in installments over the ten year term of the license, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten year U.S. Treasury obligations plus 2.5 percent. Installment payments are due quarterly on the anniversary of the day the license is granted. Failure to make timely installment payments may result in revocation of the license. Small businesses are permitted to make interest-only installment payments during the first two years of the license.

(c) Down payments. A winning bidder that qualifies as a small business is permitted to make a down payment equal to 5 percent of the winning bid due five days after the auction closes with the remaining 5 percent down payment due five days after Public Notice that the license is ready for grant.

(d) Unjust enrichment. If a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for bidding credits or seeks to make any other change in ownership that would result in the licensee no longer qualifying for bidding credits under this section, the licensee must seek Commission approval and reimburse the government for the amount of the bidding credit, plus interest at the rate imposed for installment financing at the time the license was awarded as a condition of the approval of such assignment, transfer or other ownership change. The amount of the payment would be reduced over time so that a transfer in the first two years of the license would result in a payment of 100 percent of the value of the bidding credit; in year three of the license term

the payment would be 75 percent; in year four the payment would be 50 percent and in year five the payment would be 25 percent, after which there would be no payment. Transfer of control or assignment of station license is also subject to provisions of § 1.2111 of this chapter.

Subpart F—Application, Licensing, and Processing Rules for GWCS

§ 26.301 Authorization required.

No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.

§ 26.302 Eligibility.

(a) General. Authorizations will be granted upon proper application if:

(1) The applicant is qualified under the applicable laws and the regulations, policies and decisions issued under those laws, including §§ 26.101 and 26.12;

(2) There are frequencies available to provide satisfactory service; and

(3) The public interest, convenience or necessity would be served by a grant.

(b) Alien ownership. A GWCS authorization to provide Commercial Mobile Radio Service may not be granted to or held by:

(1) Any alien or the representative of any alien.

(2) Any corporation organized under the laws of any foreign government.

(3) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or any corporation organized under the laws of a foreign country.

(4) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds